

RESOLUTION 05-2009
AN ORDER ABANDONING AN ALLEY IN BASIN

A petition was filed with the Board of County Commissioners of Jefferson County, Montana (hereinafter, the "Board"), by Ed Betka on the 14th day of October, 2008. This petition requested the abandonment of a certain Jefferson County alley in an unincorporated town or townsite within Jefferson County, Montana, and being a portion of an alley within the original townsite of Basin, Jefferson County, Montana. The description of the subject alley is set forth as follows:

A tract of land being a portion of an alley in Block 14, Town of Basin, being situated in the S ½ of Section 17, Township 6 North, Range 5 West, P.M.,M., Jefferson County, Montana, and as shown as Tract A on the attached exhibit, consisting of 1 Sheet hereto and made a part hereof, containing an area of 0.02 acres more or less.

Pursuant to Title 7, Chapter 14, Part 26, MCA, the Board made a preliminary review of the subject Petition. The Board found that the petition was submitted by all of the landowners affected by alley petitioned to be closed within Jefferson County and found that said petition described the particular alley or portions thereof to be abandoned, the general route thereof, and the lands and owners affected by the proposed abandonment.

The Board further determined that the consent of the owners of the affected lands was endorsed upon the Petition by their execution of the same and that the Petition set forth the necessity for and advantage of the petitioned action.

Therefore, the Board ordered that the feasibility, desirability, and cost of granting the prayer of the Petition, and the merits or demerits of the proposed abandonment be investigated. In this regard, the Board appointed Commissioner Kirsch and Joe Carter, Road Supervisor, to conduct the investigation. On January 6, 2009 Joe Carter reported that he and Commissioner Kirsch investigated the merits of the petition and recommended that the petition be granted.

The Board considered the Petition and the findings of the investigation. The Commission approved the closure of alley; hereinafter described:

A tract of land being a portion of an alley in Block 14, Town of Basin, being situated in the S ½ of Section 17, Township 6 North, Range 5 West, P.M.,M., Jefferson County, Montana, and as shown as Tract A on the attached exhibit, consisting of 1 Sheet hereto and made a part hereof, containing an area of 0.02 acres more or less.

The Board found that the granting of the relief sought in the Petition was in the best interest of the County, was both feasible and desirable for the use and benefit of the public, would not cause any increase in costs to the public, and could be done without detriment to the public interest.

Upon such basis, the Board determined that the Petition should be granted and that an appropriate Order should be entered.

Therefore, **IT IS HEREBY ORDERED** as follows:

1. That the Petition of Ed Betka is hereby granted subject to the following conditions:
 - a) that the Petitioner recognize that no owner shall ever claim or attempt to claim that any portion of said alley constitutes a “lot” or “parcel”, distinct from the owners adjoining lot or property, upon which the separate residence or structure requiring water and sewer facilities can be constructed, and;
 - b) that any utility easements now existing on the right-of-way will be continued unaltered and that access by utility company employees for the maintenance of the equipment shall be allowed, and;
 - c) that Jefferson County shall retain full utility rights, if any.
2. That the portion of the said Jefferson County street which is abandoned by this Order is more particularly described as:

A tract of land being a portion of an alley in Block 14, Town of Basin, being situated in the S ½ of Section 17, Township 6 North, Range 5 West, P.M.,M., Jefferson County, Montana, and as shown as Tract A on the attached exhibit, consisting of 1 Sheet hereto and made a part hereof, containing an area of 0.02 acres more or less.

DATED this 13th day of January, 2009.

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER